

Message Text

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R 082206Z DEC 76
FM SECSTATE WASHDC
TO AMEMBASSY GABORONE

C O N F I D E N T I A L STATE 298713

E.O. 11652: GDS

TAGS: SHUM, MASS, SU

SUBJECT: CLEARANCE OF DRAFT HUMAN RIGHTS OBSERVANCE REPORT

REF: STATE 231122

1. SECTION 502B OF THE FOREIGN ASSISTANCE ACT OF 1961 AS
AMENDED BY THE INTERNATIONAL SECURITY ASSISTANCE ACT AND
ARMS EXPORT CONTROL ACT OF 1976 STATES IN PARAGRAPH 502B
(B) THAT THE "SECRETARY OF STATE SHALL TRANSMIT TO THE
CONGRESS, AS PART OF THE PRESENTATION MATERIALS FOR SECURITY
ASSISTANCE PROGRAMS PROPOSED FOR EACH YEAR, A FULL AND
COMPLETE REPORT....WITH RESPECT TO PRACTICES REGARDING THE
OBSERVANCES OF AND RESPECT FOR INTERNATIONALLY RECOGNIZED
HUMAN RIGHTS IN EACH COUNTRY PROPOSED AS A RECIPIENT OF
SECURITY ASSISTANCE." PARAGRAPH (D) (2) OF SECTION 502B
AS AMENDED DEFINES "SECURITY ASSISTANCE" TO INCLUDE
SECURITY SUPPORTING ASSISTANCE, FMS, CERTAIN COMMERCIAL
SALES, CREDITS AND OTHER PROGRAMS. THE FULL TEXT OF THE
AMENDED SECTION 502B WAS TRANSMITTED BY THE REFTEL.

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BOTSWANA MAY BE PROPOSED AS A SECURITY SUPPORTING ASSISTANCE

RECIPIENT FOR FY 78.

2. AS INDICATED IN THE REFTEL, THE DEPARTMENT HAS BEEN COLLECTING AND PREPARING INFORMATION ON THE HUMAN RIGHTS SITUATIONS IN SECURITY ASSISTANCE RECIPIENT COUNTRIES IN ANTICIPATION OF SUBMITTING IT TO CONGRESS EARLY NEXT YEAR AS PART OF THE CONGRESSIONAL PRESENTATION DOCUMENT (CPD) ON SECURITY ASSISTANCE. HUMAN RIGHTS REPORTING FROM OVERSEAS POSTS, INFORMATION FROM NON-GOVERNMENTAL ORGANIZATIONS SUCH AS THE INTERNATIONAL COMMISSION OF JURISTS, AMNESTY INTERNATIONAL AND FREEDOM HOUSE, REPORTS BY INTERNATIONAL ORGANIZATIONS AND CONGRESSIONAL HEARINGS ON HUMAN RIGHTS HAVE BEEN COMPILED IN A DRAFT HUMAN RIGHTS OBSERVANCE REPORT ON EACH SECURITY ASSISTANCE RECIPIENT COUNTRY. THE DRAFT REPORT ON BOTSWANA BEGINS AT PARA 7.

3. THE DRAFT REPORT FOLLOWS A STANDARD FORMAT CALLING FOR A DESCRIPTION OF THE POLITICAL AND LEGAL SITUATION IN THE COUNTRY, A DESCRIPTIVE STATEMENT OF ACTUAL OBSERVANCE OF RIGHTS AND FREEDOMS IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS WITH SPECIFIC ATTENTION TO MATTERS SPECIFIED IN THE INCLUSION CLAUSE OF PARAGRAPH (D) (1) OF SECTION 502B AS AMENDED, AND A REFLECTION OF OTHER HUMAN RIGHTS REPORTING. THE TEXT OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS WAS TRANSMITTED TO THE FIELD AS AN ENCLOSURE TO 75 STATE A-1045.

4. THE DRAFT REPORT HAS BEEN PARTIALLY CLEARED IN THE DEPARTMENT AND IS BEING USED INTERNALLY IN THE CURRENT REVIEW OF PROPOSED PROGRAMS FOR FY 1978. BEFORE FINAL CLEARANCE IN THE DEPARTMENT CAN BE OBTAINED FOR THE DRAFT REPORT'S INCLUSION IN THE CPD AS AN UNCLASSIFIED DOCUMENT (WHICH MAY BE PUBLICLY DISCLOSED IF CONGRESS SO CHOOSES), THE DEPARTMENT REQUESTS THE EMBASSY TO CAREFULLY REVIEW, CORRECT, UPDATE AND CLEAR THE DRAFT. (UNTIL THE DRAFT IS CLEARED FOR RELEASE, HOWEVER, IT REMAINS A WORKING DOCUMENT CLASSIFIED CONFIDENTIAL UNDER THE PROVISIONS OF EXECUTIVE ORDER 11652.)

5. IN CONDUCTING ITS REVIEW, THE EMBASSY SHOULD ENSURE CONFIDENTIAL

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THAT THE INFORMATION IN THE DRAFT CONSTITUTES A "FULL AND COMPLETE REPORT--WITH RESPECT TO PRACTICES REGARDING THE OBSERVANCE OF HUMAN RIGHTS" IN BOTSWANA, AS REQUIRED IN SECTION 502B (B) AS AMENDED.

6. REQUESTED ACTION: THE EMBASSY IS REQUESTED TO REVIEW THE ENCLOSED DRAFT AND PROVIDE COMMENTS, SUGGESTED REVISIONS, UPDATING INFORMATION, ADDITIONAL INFORMATION

IN SATISFACTION OF THE REQUIREMENTS OF SECTION 502B (B)
AS AMENDED, AND CLEARANCE BY TELEGRAM TO REACH THE
DEPARTMENT NO LATER THAN DECEMBER 14.

7. TEXT OF DRAFT REPORT IS AS FOLLOWS:

BOTSWANA

I. POLITICAL SITUATION - THE REPUBLIC OF BOTSWANA HAS A
MULTI-PARTY AND DEMOCRATIC SYSTEM OF GOVERNMENT. UNDER
THE CONSTITUTION EXECUTIVE POWER IS VESTED IN THE PRESI-
DENT, WHO IS ELECTED BY THE NATIONAL ASSEMBLY FROM AMONG
ITS MEMBERS FOR A FIVE YEAR TERM. PRESIDENT SIR SERETSE
KHAMA, WHO LED HIS NATION TO INDEPENDENCE IN 1966, HAS
BEEN RE-ELECTED TWICE SINCE THEN.

PRESIDENT KHAMA'S PARTY, THE BOTSWANA DEMOCRATIC PARTY,
STRENGTHENED ITS POSITION IN THE UNICAMERAL NATIONAL
ASSEMBLY IN THE 1974 ELECTIONS. THE THREE OPPOSITION
PARTIES HOLD A TOTAL OF FIVE SEATS IN THE 37-MEMBER
ASSEMBLY. THE CONSTITUTION ALSO PROVIDES FOR A HOUSE OF
CHIEFS, WHICH SERVES AS AN ADVISORY BODY TO THE GOVERN-
MENT. THE NATIONAL ASSEMBLY IS PROHIBITED FROM PROCEEDING
WITH ANY BILL RELATING TO MATTERS OF TRIBAL CONCERN
WITHOUT CONSULTING THE HOUSE OF CHIEFS.

A CONCERN FOR HUMAN RIGHTS PROVIDES THE FOUNDATION FOR
BOTSWANA'S NON-RACIAL SOCIETY, AND SHAPES PRESIDENT
KHAMA'S PHILOSOPHY FOR APPROACHING THE PROBLEMS OF
SOUTHERN AFRICA. BOTSWANA'S SMALL WHITE MINORITY PARTICI-
PATES FREELY IN THE POLITICAL PROCESS. IN A HUMAN RIGHTS
DAY SPEECH ON DECEMBER 10, 1975, THE PRESIDENT REAFFIRMED
BOTSWANA'S COMMITMENT TO HUMAN RIGHTS.

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II. LEGAL SITUATION - CHAPTER II OF THE CONSTITUTION
OF THE REPUBLIC OF BOTSWANA CONTAINS GUARANTEES OF BASIC
HUMAN RIGHTS. THE GUARANTEES, WHICH ARE EFFECTIVELY
PROTECTED IN PRACTICE, INCLUDE: RIGHT TO LIFE, LIBERTY
AND INDIVIDUAL FREEDOM; FREEDOM OF CONSCIENCE, EXPRESSION,
AND OF ASSEMBLY AND ASSOCIATION; AND PROTECTION OF THE
PRIVACY OF THE HOME AND OTHER PROPERTY. THESE FUNDAMENTAL
CONSTITUTIONAL RIGHTS APPLY TO ALL PEOPLE IN BOTSWANA
REGARDLESS OF RACE, COLOR, CREED, SEX, NATIONAL ORIGIN OR
POLITICAL OPINION.

THE CONSTITUTION PERMITS THE PRESIDENT TO SUSPEND IMPORTAN
GUARANTEES BY DECLARING A STATE OF EMERGENCY. IT'S
DURATION IS SUBJECT TO APPROVAL BY A MAJORITY OF THE

NATIONAL ASSEMBLY. THERE IS NOT A STATE OF EMERGENCY IN BOTSWANA.

III. OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS

A. INTEGRITY OF THE PERSON

ARTICLE 3: THE RIGHT TO LIFE, LIBERTY AND SECURITY OF THE PERSON IS RESPECTED IN BOTSWANA. THE HOME IS INVIOABLE AND A SEARCH REQUIRES A WARRANT WHICH MAY ONLY BE OBTAINED UNDER CONDITIONS SPECIFIED BY LAW.

ARTICLE 5: THERE IS NO EVIDENCE THAT PERSONS IN BOTSWANA HAVE BEEN SUBJECTED TO TORTURE OR TO CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT.

ARTICLE 8: ACCESS IS READILY AVAILABLE TO TRIBUNALS FOR REMEDIES IN CASES INVOLVING VIOLATIONS OF FUNDAMENTAL RIGHTS.

ARTICLE 9: THERE ARE NO POLITICAL PRISONERS AND THERE IS NO EVIDENCE OF IMPRISONMENT WITHOUT TRIAL.

ARTICLE 10: THE RIGHT TO A FAIR HEARING IS OBSERVED.

ARTICLE 11: PERSONS CHARGED WITH A CRIMINAL OFFENSE HAVE CONFIDENTIAL

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A RIGHT TO A FAIR TRIAL WITH LEGAL COUNSEL. THEY ARE PRESUMED INNOCENT UNTIL PROVEN GUILTY.

B. OTHER IMPORTANT FREEDOMS

BOTSWANA GUARANTEES AND PERMITS FREEDOM OF CONSCIENCE, FREEDOM OF ASSEMBLY AND ASSOCIATION, FREEDOM OF MOVEMENT, FREEDOM OF EXPRESSION AND THE FREEDOM TO OWN PRIVATE PROPERTY.

IV. OTHER REPORTING - AMNESTY INTERNATIONAL'S 1975-76 REPORT NOTED THAT ITS PRINCIPAL CONCERN WITH REGARD TO BOTSWANA WAS THE SITUATION OF POLITICAL REFUGEES FROM SURROUNDING COUNTRIES WHO HAVE SOUGHT ASYLUM THERE. IT ENCOURAGES BOTSWANA TO CONTINUE TO AFFORD SECURITY AGAINST REPATRIATION TO ALL POLITICAL REFUGEES. THE GOVERNMENT OF BOTSWANA HAS APPEALED TO THE INTERNATIONAL COMMUNITY FOR ASSISTANCE IN HANDLING THE INCREASING NUMBER OF REFUGEES FROM SOUTH AFRICA.

FREEDOM HOUSE LISTS BOTSWANA AS BEING "FREE". ROBINSON

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